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TEXAS JUSTICE COURT TRAINING CENTER

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CAN A JUSTICE OF THE PEACE DETERMINE OWNERSHIP OF A MOTOR VEHICLE: A.G. Op. GA-0761

The Training Center has been receiving questions generated by a recent Attorney General Opinion, GA-0761. Some justices of the peace have experienced constituents coming to their courts to get a **court order for title/ownership of a motor vehicle** so that the local tax assessor will issue a new title and registration. Because the Opinion does not say what the tax assessors claim it does, we want to give you our opinion about the issue as well. Remember, you can get a copy of this Opinion on the Attorney General's web site at www.oag.state.tx.us. If you would like to read the entire Opinion.

Attorney General Opinion No. GA-0761 states, in part:

While the "true owner" language in article 47.02(b), whether read in conjunction with article 47.04 or read alone, could support the conclusion that a justice of the peace or a municipal judge has authority to award title or ownership of a motor vehicle, **we cannot conclusively state that a justice of the peace or a municipal court judge has such authority.** (Emphasis added by Training Center.)

The Opinion discusses the fact that the justice court (and in some cases, the municipal court) has the authority to award **possession** of a motor vehicle, **but only in those specific instances.** It concludes that Articles 47.01a and 47.02 of the Code of Criminal Procedure clearly allow a JP to award possession of a motor vehicle that is seized in a criminal investigation, whether a criminal trial is pending or not, but these are related to criminal cases and return of stolen property. Specific procedures apply when there is a trial pending or no trial pending. We agree with the Opinion's analysis and conclusions on this point, including the doubt it expresses about authority to award **title or ownership and the limits of the JP's authority to award possession only.**

We concur also with the discussion of a justice court's authority to foreclose a lien on personal property under Tex. Gov't C. § 27.031(a)(3), and want to stress that the property foreclosed upon must fall within the dollar amount jurisdiction of the justice court (\$10,000). However, the Opinion **does not say that the justice court can award title and ownership in all instances.** The primary conclusion of the Opinion is that the

" ... Texas Department of Motor Vehicles may, under section 501.074(a)(4) of the Transportation Code, **accept a court order from a justice or municipal court in carrying out its duty to issue a new certificate of title** for a motor vehicle, **the ownership of which has been transferred by operation of law.** ..." We agree, but the requirements of each statute discussed above must be met.

If the vehicle is abandoned property or subject to a lien, there may be an applicable procedure that could be handled by the justice court. If the person who possesses the car falls into one of the classes of lien holders listed in the Property Code, then you may be able to foreclose the lien subject to the \$10,000 limit of your jurisdiction.



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